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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/718,366 | 11/20/2003 | Pablo Nolasco | AUTOLIFT-ORIENTATION | 9533 |
| 4988 | 7590 | 02/28/2006 | EXAMINER | |
| ALFRED M. WALKER 225 OLD COUNTRY ROAD MELVILLE, NY 11747-2712 | | | GREENHUT, CHARLES N | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3652 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--|---------------------------------------|--|
| Office Action Summary | Application No. 10/718,366 | Applicant(s) NOLASCO, PABLO | |
| | Examiner Charles N. Greenhut | Art Unit 3652 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

I. Drawings

1. Figures 1-16 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. The claims of the present application are directed to the improvements shown in Figures 17-23. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawing are objected to because the specification refers to the wedge adapter sleeve as "124" (Pg. 19) while the drawings show the sleeve at "134"
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either

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“Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

II. Claim Objections

1. Claim 1 is objected to because “pistol” in line 30 should read -piston-.
2. Claim 3 is objected to because “the distal portion” in line 1-2 should read -a distal portion- since there is no antecedent basis for the distal portion.

III. Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1-8 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 20 of U.S. Patent No. 6,139,250. Although the conflicting claims are not identical, they are not patentably distinct from each other.

IV. Claim Rejections - 35 USC § 112

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 3, and 5-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- 1.1. Claim 3 is indefinite because it is unclear what is meant by the phrase, "straight in linear shape" in line 3. Furthermore the term "straight" is a term of degree.

- 1.1(a) For purposes of examination on the merits examiner assumes the phrase "said swivel arm scoop claw engaging a wheel is straight in linear shape" should read, - said swivel arm scoop claw engaging a wheel is linear in shape-.

- 1.2. Claim 5 is indefinite because it is unclear what is meant by the phrase, "the lateral forces" in line 2. Furthermore, this term lacks antecedent basis.

- 1.3. Claim 6 recites the term "said claw arm" and "said respective claw arms" in lines 2-3 and 4-5, respectively. It is unclear whether this term refers to the "swivel arm scoop claw" or to the "distal arm of each said wheel lifting swivel arm scoop claw".

- 1.4. Claim 6 is indefinite because it is unclear what is meant by the phrase, "said wedge sleeve adapter slides over each (?said claw arm?), of each said swivel arm scoop claw, to provide a space and to reduce the distance between said respective claw arms

and said respective slider arms, where small tires or flat tires can being lifted” is unclear.

- 1.4(a) For purposes of examination on the merits, examiner assumes the phrase should read, -said wedge sleeve adapter slides over each (?said claw arm?), of each said swivel arm scoop claw, ~~to provide~~ thereby reducing a space ~~and to reduce the distance~~ between (?said respective claw arms?) and said respective slider arms, ~~where~~ to accommodate small tires or flat tires ~~can~~ being lifted-
- 1.5. Claim 7 is indefinite because the claim is unclear apparently due to duplicate and missing language in the phrase, “a pressure limiting sensor valve in each hydraulic fluid comprising a pressure limiting sensor valve in each hydraulic fluid line providing hydraulic fluid to each respective hydraulic cylinder, said valve terminating hydraulic fluid flow when a predetermined threshold pressure of said claw member against a respective tire of a disabled vehicle to be towed.”
- 1.5(a) For purposes of examination on the merits, examiner assumes the phrase should read, -a pressure limiting sensor valve ~~in each hydraulic fluid comprising a pressure limiting sensor valve~~ in each hydraulic fluid line providing hydraulic fluid to each respective hydraulic cylinder, said valve terminating hydraulic fluid flow when a predetermined threshold pressure is reached, to limit the force of each of said claw members against a respective tire of a disabled vehicle to be towed-

1.6. Claim 8 is indefinite because it is unclear what, "that" refers to in lines 26 and 30.

For purposes of examination on the merits, examiner assumes "that" should read -the side-.

V. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 1 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over RUSS (US 4,564,207 A).

1.1. With respect to claim 1, RUSS teaches the improvement comprising hydraulic cylinders (30)/(31) laid fixed and parallel (Fig. 2), a slotted plate (36a)/(36b), accommodating a piston head (32)/(33). It would have been obvious to one of ordinary skill in the art to locate and orient the hydraulic cylinders as in RUSS in order to make them less susceptible to damage.

2. Claim(s) 2, 3 and 8 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over RUSS in view of CAPERS (US 4,678,392 A).

2.1. With respect to claim 2 and 8, RUSS fails to teach a cover sleeve. CAPERS teaches a cover sleeve (Fig. 8). It would have been obvious to one of ordinary skill in the art to modify RUSS with the cover sleeve of CAPERS in order to protect the hydraulic cylinders.

- 2.2. With respect to claim 3, RUSS additionally discloses a linear claw (45) extending at a right angle (Fig. 2).
3. Claim(s) 4-6 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over RUSS in view of NESPOR (US 5,628,609 A)

- 3.1. With respect to claim 4-6, RUSS fails to teach a wedge sleeve. NESPOR teaches a wedge sleeve (62) supporting lateral forces and reducing the distance between swivel and slider arms. It would have been obvious to one of ordinary skill in the art to modify RUSS with the wedge sleeve of NESPOR in order to confine the wheel for lifting.
4. Claim(s) 7 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over RUSS in view of SIMPSON (US 5,374,156 A).

- 4.1. With respect to claim 7, RUSS fails to teach a pressure limiting sensor valve. SIMPSON teaches a pressure limiting sensor valve. It would have been obvious to one of ordinary skill in the art to modify RUSS with the pressure limiting sensor valve of SIMPSON in order to prevent damage to the vehicles and machinery.


VI. Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.

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3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG



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